SLATTERY ASSOCIATES, INC.

POLYGRAPH

[Names Omitted In Printing]

[Graph Omitted In Printing]

FEDERAL & STATE
COURT QUALIFIED

REPORT OF POLYGRAPH EXAMINATION

OF

JOAQUIN SERBANDO FUSTER

RE

ALLEGED WITNESS
INVESTIGATIVE ISSUES

SLATTERY ASSOCIATES, INC.
FILE NUMBER 96-0112 (S)

EXAMINED ON

MAY 14th, 1996

BY

GEORGE B. SLATTERY

REPORT DATE

MAY 16th, 1996

8525 Northwest 53rd Terrace, Savannah Building, Suite 100, Miami, Florida 33166
Phone: (305) 592-7917 • Fax: (305) 591-5963

TABLE OF CONTENTS

I QUALIFICATIONS OF EXAMINER..... 1

II SUBJECT INFORMATION..... 2

III PRE-TEST AND POST TEST RELEASES 2

IV POLYGRAPH INSTRUMENT INFORMATION 2

V POLYGRAPH TECHNIQUE 2

VI QUESTION NUMBERING 2

VII BASIC CASE INFORMATION 3

VIII SUBJECT'S VERSION OF THE INCIDENT 4

IX THE POLYGRAPH EXAMINATIONS 5

X RESULTS AND CONCLUSIONS 6

I

QUALIFICATIONS OF THE EXAMINER

GEORGE B. SLATTERY
(FPA Certified Polygraphist Number 116)

The examiner has been a practicing polygraphist since 1962, and has conducted approximately 15,000 polygraph examinations regarding criminal and civil issues, including major crimes testing for the Criminal Justice System. The examiner has qualified as an expert witness on numerous occasions in state and federal court, and was the polygraphist in *United States v. Piccinonna* [885 F2d 1539 (11th Cir. 1989)], *United States v. Matthews* (case number 94-6020-CR-Ungaro Benages), *State of Florida vs. Kassidy* [495 So. 2d 907 (3rd. DCA 1986)], *United States v. O'Neill* (case number 93-8095-CR-Ungaro Benages), *United States v. Duncan* (case number 94-87-CR-ORL-22) *United States v. Johnson, Cardoen, et al.* (case number 93-241-CR-Highsmith), *United States v. Johnie W. Osborne, et al.* (Middle District of Florida, Tampa Division, case

number 94-186-CR-T-24C), and *State of Florida vs. Jacques Georges* (11th Cir. case number 95-24356).

After receiving a Certificate Of Completion from The Backster School of Lie Detection, the examiner became a Life Member of The Florida Polygraph Association and served on the Board of Directors for 10 consecutive years; twice as President, three times as Chairman of The Board, and also served as Vice President Public Sector and Vice President Private Sector. The examiner has conducted numerous training seminars for that association on topics including: chart interpretation, numerical scoring of charts, ethics, control question formulation, the proper application of The Backster Zone Comparison Technique and the presentation of polygraph evidence in court. He has been designated as a Certified Polygraphist (CP) by the Florida Polygraph Association.

The examiner is a Full Member of the American Polygraph Association, the Florida Polygraph Association, and the National Polygraph Association. He has been designated as a Board Certified Forensic Examiner (BCFE) by the American Board of Forensic Examiners, a Certified Fraud Examiner (CFE) by the Association of Certified Fraud Examiners, and a Certified Protection Professional (CPP) by the American Society For Industrial Security.

The examiner has attended and instructed at American Polygraph Association National Seminars between 1980 and 1994 in: Vancouver, British Columbia; Reno, Nevada; Atlanta, Georgia; Jeffersonville, Vermont; Orlando and Miami Beach, Florida; and Nashville, Tennessee. He has also served as Seminar Chairman, and presented to that

association the documents he authored entitled "Effective Polygraph Utilization," "The Polygraph In Court," and "EPPA Polygraph Examinations."

Mr. Slattery has also been designated as a Distinguished Fellow of the Academy of Certified Polygraphists, and became a Senior Instructor at the National Polygraph Institute after receiving a Master of Polygraphy from that institute.

Additional qualifications, references, or a Curriculum Vitae will be provided upon request.

II

SUBJECT INFORMATION

Subject (examinee) information including full name, and stated: aliases, nicknames, birth data, residence address, physical description, basic medical or psychological history, education, and employment data are retained in the Slattery Associates, Inc. files and copies of same can be made available to the examination sponsor upon request. If the Subject has no positive photo identification at the time of the examination, a Polaroid photo is taken and retained in our file.

III

PRE-TEST AND POST TEST RELEASES

Each Subject is requested to read and sign these releases confirming the voluntary nature of the examination. A Miranda Rights Warning is also utilized for stipulated examinations and for examinations conducted on behalf of any law enforcement agency or State Attorney's Office.

These forms are retained in our case files and copies of the same are available upon the sponsor's request.

IV

POLYGRAPH INSTRUMENT INFORMATION

The instrument used for the examination was manufactured by the Stoelting Company and utilizes at least four pens for simultaneous, permanent, visual recordings of the Subject's relative blood pressure, pulse, respiration, and galvanic skin reflex.

V

POLYGRAPH TECHNIQUE

The BACKSTER ZONE COMPARISON TECHNIQUE was utilized for the examination. The relevant test questions, only, and the Subject's responses are listed in Section VII of this report.

VI

QUESTION NUMBERING

Test questions are numbered in accordance with the Backster Zone Comparison Technique. The total number of questions asked during the instrumentation phase of the examination range from 10 to 14, but are not listed in that usual order. For example, in the exploratory series, the relevant questions are numbered 39, 43, 44, and 45. This does not reflect that a total of 45 questions have been asked. This numbering system was established for the sake of standardization and to allow the blind numerical scoring of charts relative to quality control.

VII

BASIC CASE INFORMATION

Case information for the polygraph examination of JOAQUIN SERBANDO FUSTER, age 54, was provided by KENNETH J. FISHMAN, Esquire. Sources of information included a copy of the February 2nd, 1996, testimony of GREGORY MILLER, EDWARD SHOHAT, and ROBERT SHAPIRO, as well as the February 2nd and February 3rd, 1996, testimony of F. LEE BAILEY in the Hearing on Government's Emergency Motion to Surrender Property, in the case of UNITED STATES v. DUBOC. This examiner was also provided with a copy of Mr. Fuster's March 16th, 1996, sworn Affidavit for the purpose of this examination.

The examiner was advised that the issues under investigation are whether or not Mr. Fuster was present with Attorney F. Lee Bailey during a conference in the chambers of Judge Maurice Paul on May 17th, 1994, and whether or not he heard anyone at that conference mention the word "trust."

VIII

SUBJECT'S VERSION OF THE INCIDENT

During the pretest interview JOAQUIN FUSTER's statements to this examiner were essentially the same as those contained in his Affidavit of March 16th, 1996, a copy of which was reviewed, initialed and dated by Mr. Fuster and this examiner. [See copy attached at the end of this report.]

Mr. Fuster said that he was present during that May 17th, 1994, conference in issue and was in Judge Paul's chambers for the entire time of that conference. He advised that at no time during that conference did he hear the word "trust" mentioned by anyone.

Mr. Fuster added that he is a trustee for his nephew, knows about trusts and would have been aware if a trust had ever been mentioned, especially relative to Mr. Bailey, during that meeting.

IX

THE POLYGRAPH EXAMINATIONS

The following relevant examination questions were asked of JOAQUIN FUSTER, and his responses to those questions are also listed below:

CHART I

39. Regarding your alleged presence throughout that meeting in Judge Paul's chambers on May 17th, 1994; do you intend to answer truthfully each question about that?

(A) Yes.

43. Did you lie when you swore you were present throughout that meeting in Judge Paul's chambers on May 17th, 1994?

(A) No.

44. At any time during that meeting in Judge Paul's chambers on May 17th, 1994, did you hear the word trust mentioned by anyone?

(A) No.

CHART II

The same relevant questions were asked and the Subject's responses were the same as those in Chart I, except that the order of the questions was reversed.

CHART III

The same relevant questions were asked and the Subject's responses were the same as those in Chart I.

CHART IV

The same relevant questions were asked and the Subject's responses were the same as those in Chart I.

X

RESULTS AND CONCLUSIONS

Based upon a careful analysis of JOAQUIN FUSTER's polygrams, it was the opinion of this examiner that there were no significant or consistent psycho-physiological reactions consistent with deception to the relevant questions and answers.

Therefore, it was the opinion of this examiner that Mr. Fuster did truthfully answer those questions.

AFFIDAVIT

STATE OF FLORIDA

COUNTY OF PALM BEACH

Joaquin S. Fuster, being of full age and duly sworn according to law, based on personal knowledge and upon oath, deposes and says:

1. I reside and am domiciled in the state of Florida.

2. I am a licensed commercial pilot.

3. Attorney F. Lee Bailey has on many occasions over approximately the past 10 years hired me to fly his aircraft.

4. From April, 1994 through May 17, 1994, I flew at least eleven (11) trips for Mr. Bailey in connection with the *Duboc* case.

5. On one such trip, I was present on May 17, 1994, at a conference held in the chambers of Judge Paul. Present at this conference were the Judge, Mr. Bailey, Assistant United States Attorney Greg Miller, Assistant United States Attorney Tom Kirwin, Attorney Ed Shohat, D.E.A. Agent Carl Lilly and others including, for a short period of time, Claude Duboc.

6. After the Judge called the meeting to order, there was a brief exchange between Mr. Duboc and the Judge after which it was indicated that Mr. Duboc was no longer needed in chambers, and he was escorted from the room.

7. I recall that Attorney Shohat addressed the court concerning Japanese stock that he wanted transferred to

him, and indicated that he had written a letter to the court concerning this stock.

8. To the best of my memory Mr. Miller told the court that no further money should be transferred because $6,000,000.00 was being provided to Mr. Bailey and that was enough. He also stated that he had told Mr. Shohat that.

9. I recall that Mr. Bailey advised the Judge that he would submit an accounting to the court at "the end of the tunnel".

10. At no time during this meeting was there any mention of a trust or trust account in connection with the transfer of $6,000,000.00 to Mr. Bailey, nor was any statement made regarding any stock except the Japanese stock referred to above. Specifically, there was no mention of Biochem Pharma stock.

11. The formal part of the meeting in the Judge's chambers, to the best of my memory lasted at most ten minutes.

/s/ Joaquin S. Fuster
JOAQUIN S. FUSTER

Before me, the undersigned authority, on March 16, 1996, personally appeared Joaquin S. Fuster, who is personally known to me, and states that he had read the above and foregoing Affidavit and states that the contents thereof are true and correct to the best of his knowledge, information and belief.

/s/ Carolyn M. Gadigian
NOTARY PUBLIC

[SEAL] CAROLYN M. GADIGIAN
MY COMMISSION #CC 318158
EXPIRES: Sept. 18, 1997
Bonded [illegible] notary Public Underwriters

[Illegible] 5/14/96

[Illegible] 5/14/96

AFFIDAVIT

STATE OF FLORIDA

COUNTY OF DADE

George B. Slattery, being of full age and duly sworn according to law, based upon personal knowledge and upon oath, deposes and says:

1. I reside in the State of Florida. Both my residence and office are in Dade County, Florida.

2. I am an expert polygraph examiner, having been qualified as such in state and federal courts.

3. I have conducted more than 10,000 examinations since October of 1962, am a full member of the American Polygraph Association, National Polygraph Association and Florida Polygraph Association. I served as President; Board Chairman; Vice President, Private Sector; Vice President, Law Enforcement Sector, and am a Life Member of the Florida Polygraph Association.

4. I was the polygraph examiner in the matter of *United States v. Piccinonna* [885 F2d 1539 (11th Cir. 1989)].

5. On May 14, 1996, at the request of KENNETH FISHMAN, Esquire, I administered a polygraph examination to JOAQUIN S. FUSTER between the approximate times of 10:20 a.m. through 2:40 p.m. The purpose of said examination was to confirm or negate the veracity of Mr. Fuster's Affidavit of March 16, 1996, relative to his representation that he was present on May 17, 1994, at a conference held in the Chambers of Judge MAURICE PAUL, relative to defendant CLAUDE DUBOC. (See attached Fuster Affidavit.)

6. This examiner, utilizing the Backster Zone Comparison Technique, Exploratory Test, opined that Mr. Fuster truthfully answered the following relevant questions which were asked during the course of conducting four (4) separate polygraph charts.

39. Regarding your alleged presence throughout that meeting in Judge Paul's chambers on May 17, 1994; do you intend to answer truthfully each question about that? Answer: Yes

43. Did you lie when you swore you were present throughout that meeting in Judge Paul's chambers on May 17, 1994? Answer: No.

44. At any time during that meeting in Judge Paul's chambers on May 17, 1994, did you hear the word trust mentioned by anyone? Answer: No.

/s/ G. B. Slattery
GEORGE B. SLATTERY

Before me, the undersigned authority, on November 7, 1997, personally appeared George B. Slattery, who is personally known to me, and states that he had read the above and foregoing Affidavit and states that the contents thereof are true and correct to the best of his knowledge, information and belief.

/s/ Kelly D. Graham
NOTARY PUBLIC –
Kelly D. Graham

[SEAL] OFFICIAL NOTARY SEAL
KELLY D GRAHAM
COMMISSION NUMBER
CC505622
MY COMMISSION EXP.
OCT. 25, 1999